

## **REMARKS**

Claims 1, 2 and 11-22 are pending in the application. It is respectfully acknowledged that Claims 2, 13, 15 and 19 have been objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form to include all of the limitations of the base claim and any intervening claims. The Examiner has rejected Claims 1, 11, 12, 14, 16-18 and 20-22 under 35 U.S.C. §103(a) as being unpatentable over Sawashashi et al. (EP 0 682 418 A2) in view of Bruckert (U.S. Patent 5,751,763), and further in view of Van Kerckhove (U.S. Patent 5,812,599).

Please cancel Claims 3-10 in the present application without prejudice.

It is respectfully submitted that the Response filed on June 14, 2004 contained a typographical error. The Response stated that support for the statement that the reference value is initially equal to a required signal to noise ratio can be found in the Specification at “page 8, line 4; 16, line 16; page 17, lines 2 and 11.” The references should read “page 16, line 16; page 17, lines 2 and 11.” The recitation of “8, line 4” is incorrect. The element is not contained in the prior art section, and the element is supported by and contained in the description of the preferred embodiments of the present invention.

The Examiner states that the information disclosure statement (IDS) filed on “June 15, 2004” fails to comply with the requirements of 37 C.F.R. 1.98(a)(3). First, it is respectfully submitted that the Examiner is referring to the IDS filed in July of 2004. Second, as the IDS contained the English language translation of the Abstract of Japanese reference 09-139712 as cited by the Japanese Patent Office in the related Japanese application, the IDS meets the requirements of M.P.E.P. §609 III A(3), which states, “Submission of an English language abstract of a reference may fulfill the requirement for a concise explanation.” Consideration of the art cited in the Information Disclosure Statement is respectfully requested.


Regarding the rejections of Claims 1, 11, 12, 14, 16-18 and 20-22 under §103(a), each of the independent claims recites that a base station changes a reference value for reverse closed loop power control. The Examiner states that the “P(T)” of Sawashashi et al. is a changing reference value, and therefore renders the claims unpatentable. The Examiner is taking a broad reading of “reference value” in both the claims of the present application and the cited reference. The present application clearly states that a reference value is defined as

$\theta_1 = (E_c/N_o)_{\text{required}}$ , or fractions thereof. Each of the independent claims recite that the reference value is initially set to equal the required signal to noise ratio. On the other hand, Sawashashi et al. states that  $P(T)$  is a calculated value, and that its reference value is  $P_{\text{max}}$ , which is a fixed value. Therefore, substituting the alleged reference value of Van Kerckhove into Sawashashi et al. does not result in the recitations contained in Claims 1, 11, 12, 14 and 22. In support of these arguments, and in line with the Examiner's statements in the Response to Arguments section on page 15 of the current Office Action, Claims 1, 11, 12, 14 and 22 have been amended to recite that "said reference value initially equal to  $\theta_1 = (E_c/N_o)_{\text{required}}$  or fractions thereof where  $\theta_1$  is the reference value, and  $(E_c/N_o)_{\text{required}}$  is the required signal to noise ratio". Based on at least the foregoing, withdrawal of the rejections of independent Claims 1, 11, 12, 14 and 22 are respectfully requested.

Independent Claims 1, 11, 12, 14 and 22 are believed to be in condition for allowance. Without conceding the patentability per se of dependent Claims 2, 13 and 15-21, these are likewise believed to be allowable by virtue of their dependence on their respective independent claims. Accordingly, reconsideration and withdrawal of the rejections of dependent Claims 2, 13 and 15-21 is respectfully requested.

Accordingly, all of the claims pending in the Application, namely, Claims 1, 2 and 11-22, are believed to be in condition for allowance. Should the Examiner believe that a telephone conference or personal interview would facilitate resolution of any remaining matters, the Examiner may contact Applicants' attorney at the number given below.

Respectfully submitted,



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